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November 6, 2014

Via FOIA Online

National Freedom of Information Officer
U.S. Environmental Protection Agency
1200 Pennsylvania Avenue, NW (2822T)
Washington, DC 20460
Facsimile: (202) 566-2147

Re: Freedom of Information Act Request for Records Identifying Use of the Five-Day Biochemical Oxygen Demand Test as a Nutrient Response Criteria

To Whom This May Concern:

This is a request for a public records pursuant to the Freedom of Information Act ("FOIA"), 5 U.S.C. Section 552, as implemented by the Environmental Protection Agency ("EPA") at 40 C.F.R. Part 2. For purposes of this request, the definition of "records" includes, but is not limited to (1) federal guidance documents addressing the development of scientifically defensible numeric nutrient criteria under CWA Section 304(a), (2) federal register notices regarding acceptable methods for development of Section 304(a) water quality criteria, and (3) letters and memoranda regarding the approval of such numeric nutrient criteria under Section 303(c) of the Act.

Background

Recently, some state agencies which are contemplating the development of numeric nutrient criteria have indicated that the five-day biochemical oxygen demand ("BOD5") test is a valid indicator of nutrient pollution (*i.e.*, that it is an appropriate nutrient response criteria). The statements in *Standard Methods for the Examination of Water and Wastewater* – 22nd ed. regarding the use and application of the BOD5 test contains no indication that the test is intended to address the effects of nutrients on the aquatic environment. Nonetheless, some states have begun to proceed as if the BOD5 may be used as a valid response criterion for nutrient pollution, even in the absence of other indicators (*e.g.*, even when excessive plant growth is not apparent).

Request

This request seeks all records from EPA Headquarters providing announcing to the public or providing guidance to state agencies under Section 304(a) indicating that the BOD5 test may be used as a valid response criterion when establishing numeric nutrient criteria and any correspondence approving such criteria under Section 303(c) of the Act.

Please contact the undersigned if the associated search and duplication costs are anticipated to exceed \$250.00. Please duplicate the records that are responsive to this request and send it to the undersigned at the above address. If the requested record is withheld based upon any asserted privilege, please identify the basis for the non-disclosure.

If you have any questions regarding this request, please do not hesitate to contact this office so as to ensure that only the necessary document is duplicated.

Respectfully,

A handwritten signature in blue ink, appearing to read "J. English", is written over the typed name.

Alexander J. E. English
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